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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,856	10/13/2003	Ronald Highsmith	H0001324 - 4690	3520
23639	7590	09/27/2005	EXAMINER	
BINGHAM, MCCUTCHEN LLP THREE EMBARCADERO CENTER 18 FLOOR SAN FRANCISCO, CA 94111-4067			LE, HOA T	
			ART UNIT	PAPER NUMBER
			1773	

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/684,856

Applicant(s)

HIGHSMITH, RONALD

Examiner

H. T. Le

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 27-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 27-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections

2. Claims 1-8, and 27-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Bruneau (US 6,107,444) as set forth in the last office action and further discussed below.
3. Claims 9-11 and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruneau et al (US 6,107,444) in view of Ogawa et al (US 5,139,760) as set forth in the last office action and further discussed below.

Response to Arguments

4. Applicants argued that “[f]rom the information given, it is neither clear nor inherent that the polyamide particles are transparent. For example, particles can act as light scatterers if they are opaque or colored or made out of more than one type of material. So, unless this reference points to the surprising fact that a) the particles are transparent and b) the particles are made by a method that ensures that the particles are uniform and transparent, then the Examiner is overreaching in the assumption that the polyamide particles are inherently transparent.” Polyamide, in particular nylon-6 and nylon-12, is a material known for its transparency. At col. 3, lines 14-16, Bruneau suggests polyamides from Elf Atochem under the trade names Rilsan and Orgasol. Rilsan-A (nylon 12) is a commercial transparent polyamide.¹ It is known in the art that light scattering property comes from the difference

¹ See the Zeus brochure.

in refractive indices between the polyamide and the matrix.² Therefore, contrary to Applicant's assertion, polyamide particles used in the Bruneau patent do not themselves "act" as a "light scatterer" but rather it provides a refractivity different from that of the matrix to create light scattering. In addition, note that colored particles can be transparent too.

Applicants further argued that the Bruneau reference suggests that more than approximately 90% of the particles have a size of between 2.5 and 10 μm . However, "it is still not clear from Bruneau that all of the particles have a particle diameter less than about 4 microns, as claim 27 in the present application recites. In the present application, claim 27, all of the particles must have a diameter of less than about 4 microns...". Claim 27 does not require that "all of the particles must have a diameter of less than about 4 μm " as asserted by Applicant. Claim 27 reads, in part, "wherein the particles comprise a diameter of less than about 4 microns" (emphasis added). It has been legally established that "comprise" is an open language that permits unspecified ingredients even in major amount. Therefore, a plurality of particles in which 90% of the particle population has a particle size of 2.5 and 10 μm , as disclosed in the Bruneau patent, definitely meets the claim limitation recited in claim 27.

5. Applicant's arguments filed July 7, 2005 have been fully considered but they are not persuasive for the reasons set forth above.

² See for example, the US patent 6,166,791 to Mitsui which teaches a light-scattering layer containing a transparent matrix and transparent fillers, the scattering property is a result of different refractive indices of the matrix and the fillers (note claim 2). This patent also teaches polyamide as a known transparent material (col. 4, lines 60-63).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to H. T. Le whose telephone number is 571-272-1511. The examiner can normally be reached on 10:00 a.m. to 6:30 p.m., Mondays to Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1773

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'H. T. Le', with a stylized, cursive flourish extending to the right.

H. T. Le
Primary Examiner
Art Unit 1773